

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 3-23-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The work hardening program (initial and additional hours) from 6-23-03 through 7-24-03 and the office visit on 11-5-03 **was found** to be medically necessary. The work hardening program (initial and additional hours) from 7-25-03 through 8-4-03 **was not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. The dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

- The work hardening services on 6-17-03 were denied with F. The respondent paid the requester at the rate of the Non-CARF accredited programs. ____ is CARF accredited and, pursuant to 134.(5)(C)(ii), should be paid at the rate of \$64 per hour. **Order reimbursement of \$76.80 for CPT code 97546 and \$25.60 for CPT Code 97545 for a total of \$102.40.**

This Findings and Decision is hereby issued this 8th day of October 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

MDR Tracking Number: M5-04-2376-01

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) as outlined above plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to date of service 6-17-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 8th day of October, 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/da

June 2, 2004
Amended June 22, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

Patient:
TWCC #:
MDR Tracking #: M5-04-2376-01
IRO #: 5251

Ziroc has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The Ziroc health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Ziroc for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

____, a 51-year-old male, sustained injuries to his low back while on-the-job as a garbage collector on _____. He was apparently lifting a heavy trashcan when his back went out. He was taken off work, underwent conservative treatment including physical therapy and chiropractic care, eventually underwent a laminectomy and discectomy L4/L5, followed by postoperative conservative care and epidural steroid injections.

He entered into an eight-week work hardening program following a functional capacity evaluation performed on 6/9/03. The last date of work hardening appears to have been 08/04/03. A pain mental health evaluation was performed on 8/13/03 which recommended entry into a chronic pain management program. A final office visit from Dr. B data is 11/5/03 indicates patient reaching a plateau in recovery and being referred to a pain management program.

DISPUTED SERVICES

Under dispute is the medical necessity of work hardening (97545-WH) and work hardening additional hour (97546-WH) and office visit (99213).

DECISION

The reviewer disagrees with the prior adverse determination regarding work hardening between 06/23/03 and 7/24/03 and the office visit 99213 on 11/5/03.

The reviewer agrees with the prior adverse determination regarding work hardening beyond 7/24/03.

BASIS FOR THE DECISION

Work hardening is involves a multidisciplinary approach and is reserved typically for outliers of the normal patient population, i.e. poor responders to conventional treatment intervention, with significant psychosocial issues and extensive absence from work.

Considering the time frame of injury and the patient's post-surgical status, he appeared to be an appropriate candidate for work hardening.

The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the

compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

The patient entered the work hardening program and demonstrated improvement between the two function capacity evaluations dated 6/9/03 and 6/30/03. There was little change between the FCE's of 6/2/03 and 7/24/03. Additionally the activity and treatment notes throughout this timeframe showed little progress. It appears that it would have been appropriate to discharge the patient as having reached maximum benefit with work Hardening after 7/24/03.

The office visit of 11/5/03 appears to be consistent with normal evaluation and management services necessary to direct care and is appropriate.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,